

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANDY HOLLYDAY,

Plaintiff,
VS.

Case No: _____

UNITED STATES OF AMERICA,

Defendant.

STUART EISENBERG P-13133
Attorney for Plaintiff
615 Griswold, Suite 1325
Detroit, Michigan 48226
(313) 964-5010
stuarpei@comcast.net

COMPLAINT

NOW COMES the above-named Plaintiff, Andy Hollyday, by and through his attorneys, Stuart Eisenberg, P.C. and states:

Jurisdiction and Venue

1. This action arises under the Federal Tort Claims Act, 28 U.S.C. Sec. 2671, *et. seq.*

This Court is vested with jurisdiction to adjudicate this dispute pursuant to 28 U.S.C. Sec. 1336(b).

2. In compliance with 28 U.S.C. Sec. 2675, Andy Hollyday filed a notice of administrative claim with the U.S. Customs and Border Protection (hereinafter referred to as CBP) on March 5, 2018 and received by CBP on March 12, 2018. (Exhibit 1)
3. On September 11, 2018, the CBP denied Plaintiff's claim.

4. That on September 20, 2018 an Amended Form 95 was served on CBP. (Exhibit 2).

5. That on November 1, 2018, CBP acknowledged that this was to be considered a Request for Reconsideration.

6. That to date no determination has been made as to Mr. Hollyday's request for reconsideration. Accordingly, Mr. Holiday's claim is ripe to be litigated in this Court pursuant to 28 U.S.C. Sec. 2675(a).

7. Venue is proper in the Eastern District of Michigan because all of the events giving rise to this action took place in the City of Detroit, County of Wayne, State of Michigan.

Allegations

8. Plaintiff restates and realleges Paragraphs 1 through 7 of this Complaint as if fully stated herein.

9. That on or about October 6, 2017, at approximately 6:30 a.m., Plaintiff Andy Hollyday was opening his garage door at 307 E. Ferry, Detroit, Michigan.

10. That living next door at 305 E. Ferry, Detroit, Michigan, was Todd Wilcox.

11. That Todd Wilcox was a Border Patrol employee and was thus an agent, servant and employee of the United States of America at all times relevant to this litigation.

12. That Todd Wilcox had under his control and possession a border patrol German Shepard Canine Unit dog named "Hammer" next door to where Andy Hollyday lived.

13. When Andy Hollyday opened his garage door, he was viciously attacked and bitten by the above mentioned dog when the unleashed and unsupervised dog ran into Mr.

Hollyday's garage. At all times the dog was under the control, possession and custody of Todd Wilcox, an agent, servant and/or employee of the United States of America.

Negligence

14. Plaintiff restates and realleges Paragraphs 1 through 13 of this Complaint as if fully stated herein.

15. It was the duty of the United States of America through Mr. Todd Wilcox to make sure that Plaintiff Andy Hollyday and others similarly situated were to be free from being attacked or bitten by "Hammer" while Mr. Todd Wilcox had possession and control of "Hammer".

16. That notwithstanding these duties, the United States of America is liable for Mr. Hollyday's injuries as the Defendant breached their duties as follows:

- a. Failing to have "Hammer" under the control of a leash, in violation of Michigan Compiled Law (MCL 28.262) and the applicable City of Detroit ordinances pertaining to the leashing of a dog.
- b. Failing to have "Hammer" properly secured.
- c. Allowing "Hammer" to be in an area where he was not confined and not under proper control.
- d. Failing to prevent "Hammer" either by leash or verbal command to stop "Hammer" from running into the garage of Mr. Hollyday.
- e. Failing to be familiar enough with the training of "Hammer" so that Mr. Wilcox would be able to verbally or physically stop Hammer from entering the premises of Mr. Hollyday and attacking and biting Mr. Hollyday.

- f. Failing to properly secure "Hammer" based on the training of Hammer and Mr. Wilcox's familiarity with the dog's dangerous proclivities.
- g. Failing to properly secure and confine "Hammer" particularly in light of the dog's job as a security border patrol dog.
- h. Performing other acts of negligence and/or violating other laws and/or ordinances not yet known by Plaintiff but which will be ascertained during the discovery of this litigation.

17. That as a direct and proximate result of Mr. Wilcox' negligence, Mr. Hollyday sustained a vicious bite to his left shoulder requiring numerous stitches and permanent hypertrophic scarring of the left upper arm and shoulder.

18. As a direct and proximate result of the negligence of Todd Wilcox, Claimant Hollyday was required to undergo medical care at Henry Ford Hospital, including stitches, and evaluation by Board Certified Plastic Surgeon Raymond Hajjar.

19. That as a direct and proximate result of the negligence of the Defendant, Plaintiff claims the following additional damages:

- a. Compensation for pain, suffering, mental anguish, emotional distress, disability, impairment, loss of the enjoyment of life.
- b. Compensation for all economic damage, including past medical expenses, household expenses, past lost wages and future lost wages.
- c. Compensation for loss of service, society, companionship and consortium.

d. Compensation for any other damages sustained by Plaintiff as a direct and proximate result f the negligence of the government's employees and/or agents.

WHEREFORE, your Plaintiff prays for a judgment against the Defendant in the sum of Five Hundred Thousand (\$500,000.00) Dollars together with costs, interest and attorney fees.

Respectfully submitted:

Law Offices of Stuart Eisenberg, P.C.

By: */s/ Stuart Eisenberg*

STUART EISENBERG P13133
Attorney for Plaintiff
615 Griswold, Suite 1325
Detroit, Michigan 48226
(313) 964-5010

EXHIBIT 1

Law Offices of
STUART EISENBERG, P.C.
615 Griswold, Suite 1325
Detroit, Michigan 48226
(313) 964-5010

Stuart Eisenberg

(800) 925-5010

Fax: (313) 964-4991

March 5, 2018

U.S. Customs and Border Protection
211 W. Fort Street, Suite 1150
Detroit, Michigan 48226

Re: Andy Hollyday

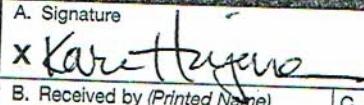
Gentlemen:

Enclosed please find Form 95 signed by Andy Hollyday along with his medical records and photograph.

Thank you for your cooperation.

Very truly,

Stuart Eisenberg
SE/jf
enclosures

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Signature  <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) </p> <p>C. Date of Delivery 3/12/18</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No </p>	
<p>1. Article Addressed to: U.S. Customs & Border Protection 211 W. Fort St., # 150 Detroit, MI 48226</p> <p>9590 9402 2155 6193 8877 57</p> <p>7016 0910 0001 6274 4116</p> <p></p>		<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Red Mail <input type="checkbox"/> Red Mail Restricted Delivery (over \$500)</p> <p><input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p> <p>Domestic Return Receipt</p> <p>City, State, Zip Code _____</p> <p>PS Form 3811, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions</p>			

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.	FORM APPROVED OMB NO. 1105-0008
1. Submit to Appropriate Federal Agency: CUSTOMS AND BORDER PROTECTION		2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. ANDY HOLLYDAY 307 E. FERRY DETROIT, MI 48202	
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH 02-18-1978	5. MARITAL STATUS Married	6. DATE AND DAY OF ACCIDENT 10-16-2017
7. TIME (A.M. OR P.M.) 6:30 A.M.			
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Claimant was opening his garage door at 307 E. Ferry, Detroit, when the next door neighbor's Border Patrol Dog attacked him in his own garage. The Border Patrol person who had custody and control of the dog is Todd Wilcox, 305 E. Ferry, Detroit, MI			
9. PROPERTY DAMAGE NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). N/A			
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).			
10. PERSONAL INJURY/WRONGFUL DEATH STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDED. Numerous stitches in left shoulder, injury to left shoulder, and permanent scarring.			
11. WITNESSES NAME ADDRESS (Number, Street, City, State, and Zip Code) Natasha Hollyday 307 E. Ferry, Detroit, MI Todd Wilcox 305 E. Ferry, Detroit, MI			
12. (See instructions on reverse).		AMOUNT OF CLAIM (in dollars)	
12a. PROPERTY DAMAGE N/A	12b. PERSONAL INJURY \$ 500,000.00	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights). \$ 500,000.00
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.			
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). 		13b. PHONE NUMBER OF PERSON SIGNING FORM 734-1000-4814	14. DATE OF SIGNATURE 3/5/18
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)	
The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729.)			

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. No

However, this is not an auto accident and I have made no claims with any insurance company.

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? Yes No 17. If deductible, state amount.

N/A

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

N/A

19. Do you carry public liability and property damage insurance? Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). No

But not an accident and no claim filed.

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. Principal Purpose: The information requested is to be used in evaluating claims.
- C. Routine Use: See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. Effect of Failure to Respond: Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

EXHIBIT 2

1. Submit to Appropriate Federal Agency: Customs and Border Protection Office 211 W. Fort Street, Suite 1200, Detroit, MI 48226 and 211 W. Fort Street, Suite 1150, Detroit, MI 48226		2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. Andy Hollyday 307 E. Ferry Detroit, Michigan 48202		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH 02/18/1978	5. MARITAL STATUS Married	6. DATE AND DAY OF ACCIDENT October 16, 2017	7. TIME (A.M. OR P.M.) 6:30 A.M.
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary.) A. Claimant Andy Hollyday was opening his garage door at 307 E. Ferry, Detroit, Michigan at 6:30 a.m. on October 16, 2017. Note: The "Basis of Claim" is continued on "Attachment 1" to this claim form and, accordingly, "Attachment 1" is incorporated herein by reference.				
9. PROPERTY DAMAGE NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). N/A				
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).				
10. PERSONAL INJURY/WRONFUL DEATH STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. The negligence of the Customs and Border Protection employee, as described in #8 above and the corresponding Attachments, caused Andy Hollyday injury, including but not limited to loss of consortium and services, emotional distress, mental suffering, and other economic and non-economic losses including stitches to his left shoulder and permanent scarring of his left shoulder.				
11. WITNESSES * NAME ADDRESS (Number, Street, City, State, and Zip Code) Andy and Natasha Hollyday 307 E. Ferry, Detroit, Michigan 48202 Todd Wilcox 305 E. Ferry, Detroit, Michigan 48202 Witnesses continued in Attachment #4				
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)				
12a. PROPERTY DAMAGE N/A	12b. PERSONAL INJURY \$500,000.00	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights). \$500,000.00	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.				
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). Stuart Eisenberg, Attorney for Claimant		13b. PHONE NUMBER OF PERSON SIGNING FORM 313-964-5010	14. DATE OF SIGNATURE 09/20/2018	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		
The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729.)				

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. No

However this is not an automobile accident and I have made no claims with any insurance agency.

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	17. If deductible, state amount. N/A
18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts). N/A		
19. Do you carry public liability and property damage insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). <input type="checkbox"/> No But not an accident and no claim filed.		

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

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The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

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The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

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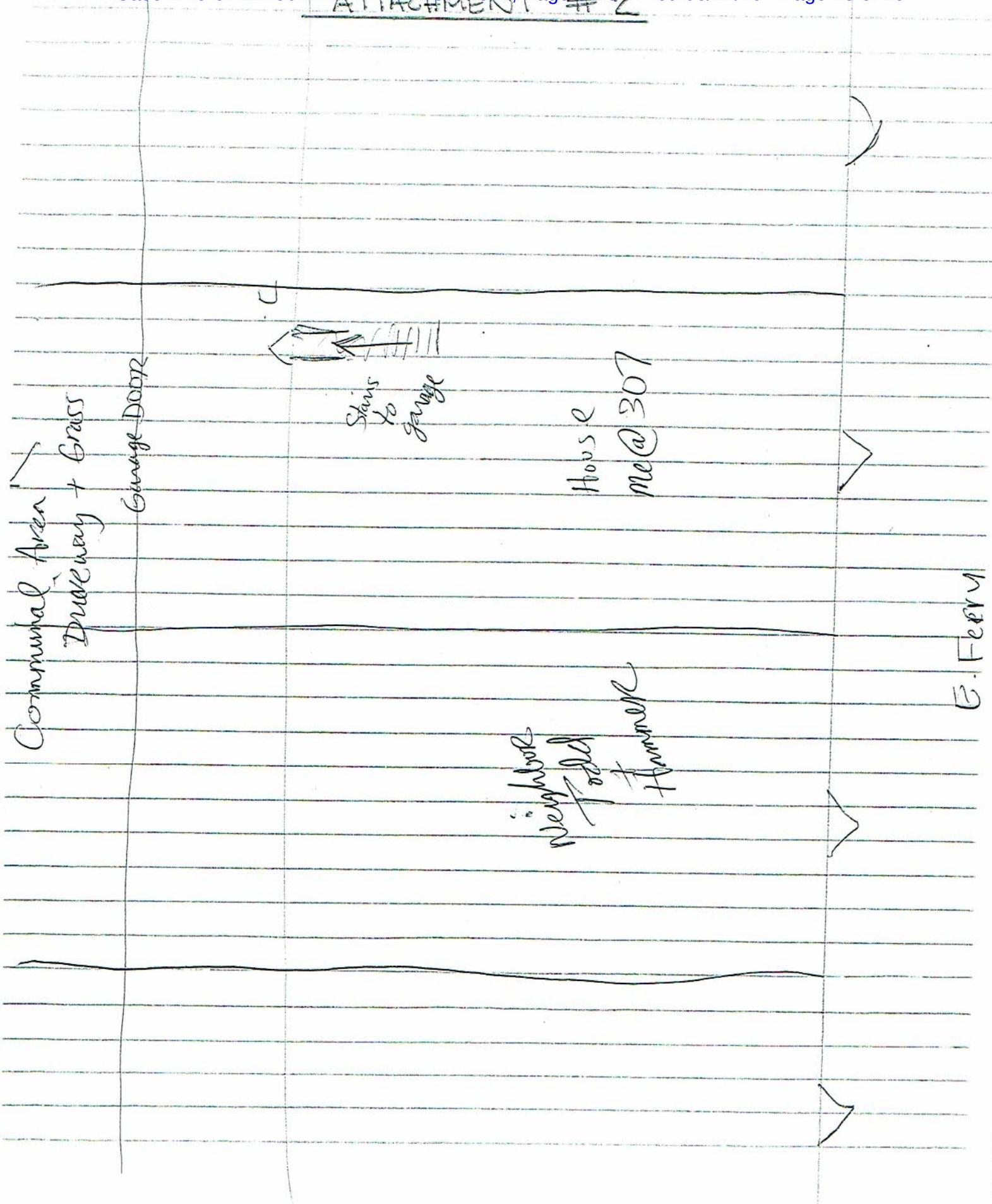
ATTACHMENT #1 TO ANDY HOLLYDAY'S SF-95 CLAIM FORM

- | 16 B. That living next door at 305 E. Ferry, Detroit, Michigan, was Todd Wilcox.
- | 17 C. That Todd Wilcox was a Border Patrol employee and was thus an agent, servant and employee of the United States of America.
- | 18 D. Todd Wilcox had under his control and possession a border patrol German Shepard Canine Unit dog named "Hammer" next door to where Andy Hollyday lived.
- | 19 E. When Andy Hollyday opened his garage door he was viciously attacked by above mentioned dog when the dog ran into Mr. Hollyday's garage. The dog was under the control, possession and custody of Todd Wilcox. The injury was due to the Common Law negligence of Mr. Wilcox and his failure to have his dog under the control of a leash in violation of Michigan Statute MCL 287.262 and the applicable City of Detroit Ordinances pertaining to the leashing of your dog.
- | 20 F. The area in question is depicted in the attached diagram, marked as Attachment #2. This diagram was prepared by Claimant Andy Hollyday.
- | 21 G. The Common Law negligence consisted of Mr. Wilcox' failure to have the dog properly secured when he knew or should have known based on the German Shepard's training that where there was a failure to use reasonable care one could expect that an injury could occur.
- | 22 H. Despite this knowledge "Hammer" was in an area where he was not confined and not under proper control and thus ran into Mr. Hollyday's garage and attacked him.
- | 23 I. As a direct and proximate result of Mr. Wilcox' negligence, Mr. Hollyday sustained a vicious bite to his left shoulder requiring numerous stitched and permanent hypertrophic scarring of the left upper arm and shoulder as depicted in Attachment #3.

17 J. As a direct and proximate result of the negligence of Todd Wilcox, Claimant Hollyday was required to undergo medical care at Henry Ford Hospital, including stitches, and evaluation by Board Certified Plastic Surgeon Raymond Hajjar. Attachment #4.

18.

ATTACHMENT #2



ATTACHMENT #3



ATTACHMENT #4

11. Additional Witnesses

All medical providers at Henry Ford Hospital, 2799 W. Grand Blvd., Detroit, MI.

RTH Plastic Surgery and Dr. Raymond Hajjar, 31100 Telegraph Road, #280, Bingham Farms, MI.

Law Offices of
STUART EISENBERG, P.C.
615 Griswold, Suite 1325
Detroit, Michigan 48226
(313) 964-5010

Stuart Eisenberg

(800) 925-5010
fax (313) 964-4991

CONTINGENCY FEE AGREEMENT

THIS AGREEMENT, made this 26 day of OCT, 2017,
between Andy Hollyday (hereinafter referred to as "client") and the Law
Offices of Stuart Eisenberg, P.C., (hereinafter referred to as "attorney").

WITNESSETH:

WHEREAS, the client may have a claim and cause of action for damages sustained and desires to employ the attorney to investigate and/or prosecute the claim and cause of action against any person or entity who may be responsible therefore;

WHEREAS, the attorney has agreed to represent the client on the condition that the attorney be entitled to conduct on its own, independent investigation of the facts and circumstances concerning the injuries suffered by the client; and

WHEREAS, if the client desires to terminate the attorney, the attorney is entitled to reimbursement of his costs plus a one-third attorney fee on any offer received; if no offer is received prior to termination, attorney will be entitled to Quantum Merit for his services up to the date of termination.

NOW, THEREFORE, the client engages and employs the attorney subject to the conditions as set forth herein to represent the client and to prosecute the claim and cause of action, and if necessary to institute and prosecute suit and to do anything and everything the attorney shall deem necessary and incident thereto;

As compensation for such legal services rendered by the attorney, the client agrees to give and hereby assigns to the attorney one-third (1/3) of the net recovery to the client, including all monies and things of value recovered on the claim, whether by



Client's initials

Law Offices of
Stuart Eisenberg, P.C.

Page 2

compromise, settlement, or otherwise. In no event shall the fees paid by the client to the Law Offices of Stuart Eisenberg, P.C., in connection with this matter, exceed ~~one third~~ ^{1/4}
~~(1/4)~~ ~~of the recovery.~~ If nothing is recovered, the client shall not be indebted to the attorney for the services.

Actual costs expended in bringing this case to trial or retrial, and to prosecute an appeal, if any, are to be paid by the client. The actual costs are to be considered a separate bill to be paid by the client and shall not be considered part of the bill for services ~~(1/4) recovery~~. The attorney agrees to advance any and all costs on behalf of the client, which the attorney, in his sole discretion, considers reasonable and necessary.

The attorney may withdraw from employment at any time upon giving the client reasonable notice, and any right of claim, if any, by the attorney for services previously rendered shall thereby be waived.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

Stuart Eisenberg, P.C.
STUART EISENBERG, P.C.


CLIENT

Andy Hollyday
CLIENT